

FINAL BILL REPORT

ESSB 5671

C 18 L 09
Synopsis as Enacted

Brief Description: Determining the suitability of annuities sold in Washington.

Sponsors: Senate Committee on Financial Institutions, Housing & Insurance (originally sponsored by Senators Berkey, Franklin, Shin and Haugen; by request of Insurance Commissioner).

Senate Committee on Financial Institutions, Housing & Insurance
House Committee on Financial Institutions & Insurance

Background: The Insurance Commissioner (the Commissioner) oversees insurers; insurance producers; insurance solicitors and adjusters; and the market practices of those persons and entities. This includes the sale of fixed and variable annuities.

The Department of Financial Institutions (DFI) regulates sales of most securities, and requires that people selling securities make recommendations that are suitable to the client. Fixed annuities are specifically excluded from DFI's regulation of securities and are not subject to the suitable recommendation requirement. Variable rate annuities are considered securities and are subject to the suitable recommendation requirement.

Summary: Insurers and producers must comply with a number of requirements in recommending or selling an annuity: they must have reasonable grounds to believe the recommendation is suitable; must make reasonable efforts to obtain relevant information from the client; and must make recommendations that are reasonable in light of all circumstances actually known to the insurer and producer.

Insurers may use a third party to monitor producers' compliance with these requirements if there is some reasonable inquiry by the insurer into the practices of the third party. A senior manager of the third party with a reasonable basis of knowledge must certify compliance with this section. Insurers and producers must retain records for at least five years, including the information used in making recommendations to consumers.

The Commissioner may order insurers and producers to take reasonably appropriate corrective action, and penalties may be reduced or eliminated in response to corrective actions.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Compliance with Financial Industry Regulatory Authority suitability rules is considered compliance with this section for annuities registered as securities. The Commissioner must notify the Legislature and the Governor of any changes regarding the registration of securities that would affect the applicability of this act.

This section doesn't apply to annuities that fund specified retirement plans, deferred compensation arrangements, settlements of personal injury litigation, or prepaid funeral contracts.

Nothing in this act is intended to affect the application of the Securities Act of Washington.

Votes on Final Passage:

Senate	45	0	
House	92	0	(House amended)
Senate	43	0	(Senate concurred)

Effective: July 26, 2009